



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4237 OF 2022
WITH
WRIT PETITION NO.4240 OF 2022

[1] WRIT PETITION NO.4237 OF 2022

Dnyaneshwar s/o Shankarao Dongare
Aged about 50 years,
Occupation-Service,
R/o. Bondu Layout, Sai Nagar,
Amravati, District-Amravati.

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Petitioner

.. Versus ..

- 1) The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati.
- 2) The District Malaria Officer,
Amravati.
- 3) The Joint Director of Health Services,
Malaria Fileria, Pune.

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Respondents

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Ms. Preeti Rane, Advocate with Ms. Himani Kavi, Advocate for Petitioner.
Mr. P.P. Pendke, Assistant Govt. Pleader for Respondent Nos.1 to 3.

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[2] WRIT PETITION NO.4240 OF 2022

Ku. Akshata d/o Dnyaneshwar Dongare,
Aged about 22 years,
Occupation-Student,
R/o. Bondu Layout, Sai Nagar, Amravati,
District-Amravati.

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Petitioner

.. Versus ..

The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate

Scrutiny Committee, Amravati.

.. Respondents

.....

Ms. Preeti Rane, Advocate with Ms. Himani Kavi, Advocate for Petitioner.
Mr. P.P. Pendke, Assistant Government Pleader for Respondent-State.

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**CORAM : SMT. M.S. JAWALKAR, AND
PRAVIN S. PATIL, JJ.**

RESERVED ON : 28th JULY, 2025.

PRONOUNCED ON : 11th AUGUST, 2025.

COMMON JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. Both these petitions are taken together as there is a common order passed by the Respondent-Caste Scrutiny Committee, Amravati (for short, respondent-committee). Furthermore, petitioner Dnyaneshwar s/o Shankarao Dongare in Writ Petition No.4237/2022 is the father of the petitioner Ku. Akshata d/o Dnyaneshwar Dongare in Writ Petition No.4240/2022. The documents relied by both the petitioners before the committee are also identical.

3. By this petition, the petitioners are challenging the impugned order dated 28.04.2022, by which the respondent-committee invalidated the caste claim of the petitioners as 'Mana'

Scheduled Tribe. It is the submission of the petitioners that both belonging to 'Mana' Scheduled Tribe category and obtained the caste certificates in that regard from the competent authority at the relevant time.

4. Petitioner in Writ Petition No.4237/2022 working as a 'Multipurpose Worker' in the Health Department and was appointed from Scheduled Tribe category on 01.10.1992. His proposal was forwarded to the scrutiny committee on 02.12.2017.

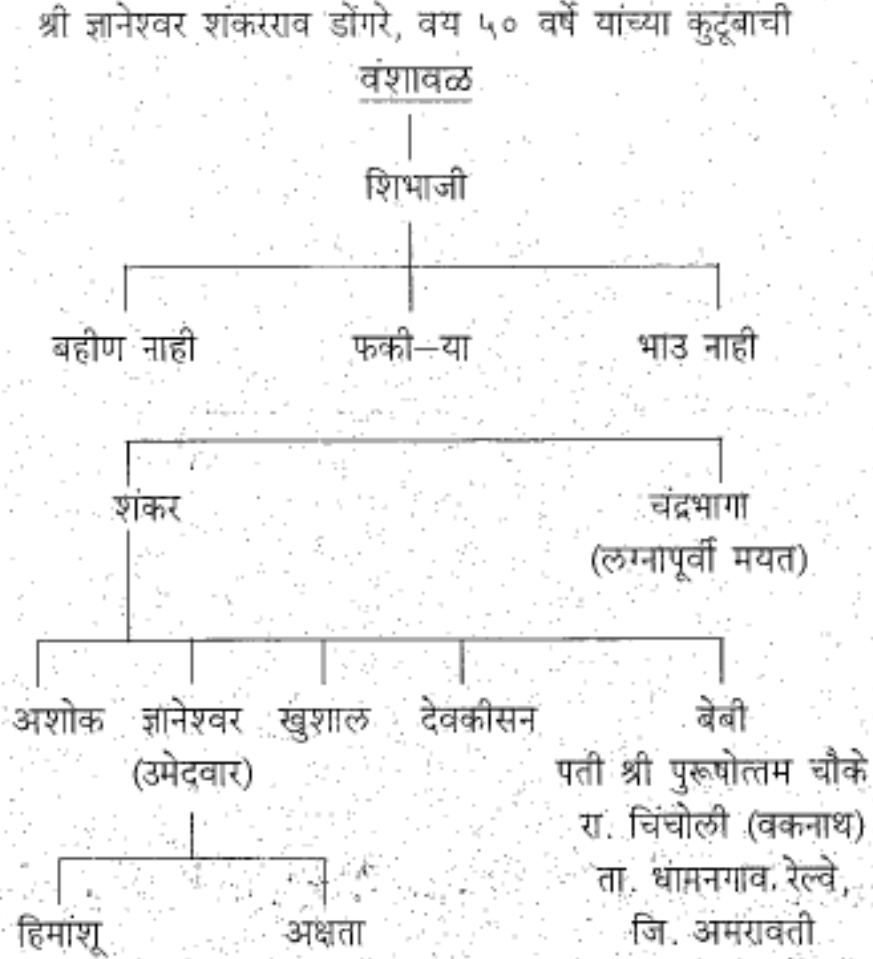
5. Petitioner in Writ Petition No.4240/2022 pursuing her final year B.Sc. course and her proposal was forwarded to the scrutiny committee on 23.06.2016.

6. It is the submission of the petitioners that while forwarding the proposal to the caste scrutiny committee, they have categorically stated that there is no caste validity in their family. Petitioner namely, Dnyaneshwar s/o Shankarao Dongare is the first person who claimed the caste 'Mana' Scheduled Tribe.

7. The petitioners have submitted the family tree along with their caste claim to the caste scrutiny committee which is not disputed in the matter. According to the family tree, in the family of the petitioners, one Shri Fakiraya is the grandfather of Dnyaneshwar

and great grandfather of Ku. Akshata d/o Dnyaneshwar Dongare.

The said genealogical tree is reproduced as under :



येणेप्रमाणे कुटुंबाची वंशावळ आहे.

सही

स्वा/-

ज्ञानेश्वर शंकरराव डोंगरे

8. The petitioners, to substantiate their caste claim, have mainly relied upon the kotwal book entry in the name of

grandfather/great grandfather namely, 'Fakiraya Mana' which is recorded on 13.06.1932. As such, on the basis of this oldest entry, the petitioners claimed that they belong to caste 'Mana' Scheduled Tribe.

9. It is also submitted by the petitioners that after forwarding their caste claim to the respondent-committee, first vigilance cell report was prepared in the matter on 02.05.2019. According to the said vigilance cell report, the entry of year 1932 in the name of Fakiraya Mana was verified and found to be correct entry. It is further stated by the petitioners that vigilance cell, during their enquiry, prepared the family tree and same is found to be resembling with the family tree prepared by the petitioners.

10. According to the petitioners, there is no dispute about the oldest documents which they have relied upon and relation of petitioners with grandfather/great grandfather namely 'Fakiraya'. It is further pointed out by the petitioners that without any justified reasons, the respondent-committee directed the vigilance cell to conduct re-enquiry into the matter. Accordingly, the vigilance cell conducted re-enquiry into the matter and submitted its report on 24.02.2020.

11. According to petitioners, in re-enquiry, vigilance cell recorded in their report that entry in the name of Fakiraya of the year 1932 cannot be relied upon, because the same is found in another case of one Ku. Janvhi Narayan Gharat. As such, on that count, the old entry of 1932 was discarded by the vigilance cell.

12. The respondent-committee, who was expected to record any reason on the oldest documents relied by petitioners, relied upon subsequent entry in the family of the petitioners wherein caste of the family members was recorded as 'Mani & Mani-Kunbi'. As such, relying on the said entry, the claim of the petitioners came to be rejected.

13. In the circumstances, the submission of the petitioners is that the respondent-committee failed to consider the pre-independence era document and also violated the Scheduled Tribe (Regulation of Issuance of Verification of Certificate) Rules, 2003 (for short, Rules-2003) and on this count, stated that impugned order is liable to be quashed and set aside.

14. The respondent-committee, in response to the notices issued by the court, filed their affidavit and stated that the entries in the family of the petitioners of years 1937, 1947, 1952, 1954 and 1965 found to be of 'Mani & Mani-Kunbi' and, therefore, committee has

rightly rejected the caste claim of the petitioners. It is further submitted by the respondent-committee that the petitioners in the affinity test failed to prove anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. Hence, in view of failure in the affinity test, the respondent-committee rightly recorded the reasons and hence there is no illegality in the order passed by the respondent-committee.

15. We have heard the respective counsel, perused the entire record and also considered the relevant case laws which were pointed out by both the parties.

16. The petitioners have relied upon the judgment of Hon'ble Supreme Court of India in the case of ***Anand .vs. Committee for Scrutiny and Verification of Tribe Claims and others, reported in 2011 (6) Mh.L.J. 919***, wherein the Hon'ble Supreme Court has observed in paras 18 and 19 as under :

18. It is manifest from the afore-extracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) *While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;*

(ii) *While applying the affinity test, which focuses on the ethnological connections with the scheduled tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a scheduled tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribes' peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim.*

19. *Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinise the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim.*

17. It is further necessary to refer the judgment in the case of ***Kumari Madhuri Patil and another .vs. Additional Commissioner, Tribal Development and others, reported in (1994) 6 SCC 241***, wherein as per the guideline no.5, it is stated as under :

Para 13 (5) - Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

18. The petitioners then relied upon other judgment of Hon'ble Supreme Court of India in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti .vs. State of Maharashtra and others, reported in 2023 SCC Online SC 326***, and relied upon paras 20, 21 and 25 as under :

20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to Vigilance Cell. One of the tests is as laid down in the

case of Kumari Madhuri Patil¹. It lays down that the documents of the preConstitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the preConstitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all.

21. In the impugned judgment in Civil Appeal No. 2502 of 2022 (Shilpa Vishnu Thakur's case²), the Full Bench of the Bombay High Court has noted that people having the surname "Thakur" belong to both forward castes and various backward castes. Therefore, the Full Bench may be right in saying that in every case, only on the basis of the surname Thakur, it cannot be concluded by the Scrutiny Committee that the applicant belongs to Scheduled Tribe Thakur notified in the Entry 44 of the Maharashtra list. However, we must note that in the case of a person having the surname Thakur, there may be evidence in the form of entry of the name of the caste as a Tribe or Scheduled Tribe in the land records, school or college records or any official records concerning the applicant or his ancestors. Only on the ground that the persons having the surname Thakur may belong to a forward caste as well, it is not necessary that in every case, the Scrutiny Committee should send the case to Vigilance Cell. It all depends on the nature of the documents produced before the Caste Scrutiny Committee and the probative value of the documents. Therefore, whenever a caste claim regarding Thakur Scheduled Tribe is considered, the Caste Scrutiny Committee in every case should not mechanically refer the case to the Vigilance Cell for conducting an enquiry including affinity test. The reference to the Vigilance Cell can be made only if the Scrutiny Committee is not satisfied with the material produced by the applicant.

25. Now, we come to the controversy regarding the affinity test. In clause (5) of Paragraph 13 of the decision in the case of Kumari Madhuri Patil, it is held that in the case of Scheduled Tribes, the Vigilance Cell will submit a report as regards peculiar anthropological and ethnological traits, deities, rituals, customs, mode of marriage, death ceremonies, methods of burial of dead

bodies etc. in respect of the particular caste or tribe. Such particulars ascertained by the Vigilance Cell in respect of a particular Scheduled Tribe are very relevant for the conduct of the affinity test. The Vigilance Cell, while conducting an affinity test, verifies the knowledge of the applicant about deities of the community, customs, rituals, mode of marriage, death ceremonies etc. in respect of that particular Scheduled Tribe. By its very nature, such an affinity test can never be conclusive. If the applicant has stayed in bigger urban areas along with his family for decades or if his family has stayed in such urban areas for decades, the applicant may not have knowledge of the aforesaid facts. It is true that the Vigilance Cell can also question the parents of the applicant. But in a given case, even the parents may be unaware for the reason that for several years they have been staying in bigger urban areas. On the other hand, a person may not belong to the particular tribe, but he may have a good knowledge about the aforesaid aspects. Therefore, Shri Shekhar Naphade, the learned senior counsel, is right when he submitted that the affinity test cannot be applied as a litmus test. We may again note here that question of conduct of the affinity test arises only in those cases where the Scrutiny Committee is not satisfied with the material produced by the applicant.

19. From the above said judgments of Hon'ble Supreme Court of India, it is clear that the scrutiny committee, while dealing with documentary evidence, greater reliance may be placed on pre-independence documents which is having higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. It is further held that the caste scrutiny committee merely performs the role of verification of the claim and, therefore, it can only scrutinize the documents and material produced by the applicant. It is held that in case the material produced by the

applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim.

20. Hon'ble Supreme Court has interpreted 12 (2) of the Rules, 2003 and held that as a matter of routine, the Scrutiny Committee cannot mechanically forward the application to Vigilance Cell for conducting an enquiry, particularly when sub-rule (2) of Rule 12 contemplates that only if the Scrutiny Committee is not satisfied with the documents produced by the applicant, in that case only to refer the documents to Vigilance Cell. In respect of affinity test, it is held that the affinity test is not a litmus test to decide the caste claim and is not an essential part in process of determination of correctness of a caste or tribe claim in every case.

21. In the light of above said legal position, we have considered the documents and procedure which has been adopted by the respondent-committee in the matter. We have also perused the document dated 13.06.1932 in the name of grandfather/great grandfather namely, Fakiraya. According to us, there is no ambiguity and it is clearly mentioned the caste as 'Mana'. As such, discarding this important document only because Vigilance Cell in its report stated that same is found in one Ku. Janvi Gharat case, without giving any details as to how same is relevant in the matter, we find

grave error committed by respondent-committee in the matter while deciding the caste claim of petitioners.

22. It is further clear from the perusal of the impugned order that the vigilance cell on 21.05.2019 submitted positive report, however, same was not relied upon by the committee and directed to consider re-enquiry into the matter. But the perusal of entire record nowhere demonstrate that the reasons are recorded while directing re-enquiry into the matter. Hence, prima facie, it is clear that the respondent-committee violated Rule 12 (2) of the Rules-2003.

23. It is pertinent to note that the whole case of the petitioners was based upon the oldest entry in the name of Fakiraya, who is grandfather/great grandfather of the petitioner, but the perusal of impugned order passed by the respondent-committee nowhere shows any consideration about the said entry nor recorded any reason as to why the said entry has been discarded while considering the case of the petitioner. Hence, according to us, there is manifest error committed by the respondent-committee while deciding the caste claim of the petitioner.

24. It is pertinent to note that the petitioners while submitting their caste claim candidly stated that there is no one in the family of the petitioners possessing the caste validity certificate and, therefore,

considering the old documents, their caste claim should be considered. In the present case, the petitioner in Writ Petition No.4237/2022 is the first person who got employment in the year 1992, claimed the caste validity and undergone affinity test. Accordingly, we have gone through the statement of Dnyaneshwar recorded by the vigilance cell officer during the course of enquiry. The bare perusal of the said statement dated 11.04.2018 clearly shows that it was in question/answer form conducted by the Police Inspector. It is also seen that the petitioner has answered every question and submitted all the details, customs and traditions followed by the petitioner and their family. It is not happened, while answering the queries, he stated that he is not aware about the traits and culture of caste 'Mana' Scheduled Tribe. As such, there was no reason to disbelieve the affinity test conducted by vigilance cell, particularly petitioner has answered all the queries put-forth by the officer.

25. In this regard, it is pertinent to note that while considering the customs and tradition followed by any particular community, it must be established on the record that the person who has conducted enquiry was having experience and done research in the matter of said tribe and on basis of such research, he has put his remark on the report so as to reach to the conclusion that the candidate failed to

establish the customs and tradition in the matter. But we do not find any such remark of the vigilance officer in his report so as to conclude that he was not satisfied that petitioners failed in the affinity test.

26. In the present matter, we found that the entire exercise done by the respondent-committee is contrary to the law laid down by the Hon'ble Supreme Court. Firstly, there is no consideration to pre-independence era document that is of dated 13.06.1932 in the name of grandfather/great grandfather of petitioners. Secondly, once vigilance cell admitted the validity of document in its first vigilance report, there was no reason recorded as to why the matter was again referred to vigilance cell. Thirdly, on affinity, the enquiry was made by the officer by asking question in question-answer form, same were replied by petitioners. As such, in absence of any remark of concerned officer that petitioners failed to prove the custom, rituals, the committee ought to have consider the same as a corroborative evidence rather than accepting it as a litmus test. As such, law laid down regarding consideration of affinity test is not at all considered in the matter.

27. In the circumstances, we find that the impugned order passed by the respondent-caste scrutiny committee is contrary to the

settled principles of law and hence deserves to be quashed and set aside. Accordingly, we pass the following order :

O R D E R

(i) The writ petition is allowed.

(ii) The impugned order dated 28.04.2022 passed by the Respondent-The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.

(iii) It is hereby declared that the petitioners have proved that they belonging to 'Mana Scheduled Tribe', which is Entry No.18 of the Scheduled Tribes Order, 1950.

(iv) The Respondent-Caste Scrutiny Committee, Amravati is hereby directed to issue the Caste Validity Certificate to the petitioners within a period of four weeks from the date of receipt of this order.

(v) It is further made clear that petitioners are entitled for all consequential benefits flowing from the caste validity certificates in their respective service career.

28. Rule is made absolute in the above terms. No costs.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)